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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/933,119	08/21/2001	Makoto Inoue	LIN.001	4969

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EXAMINER

O'CONNOR, GERALD J

ART UNIT PAPER NUMBER

3627

DATE MAILED: 10/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary**Application No.**

09/933,119

Applicant(s)

Inoue et al.

Examiner

O'Connor

Art Unit

3627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE THREE MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on July 25, 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 and 22-30 is/are pending in the application.
- 4a) Of the above claim(s) none is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 22-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on November 30, 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Preliminary Remarks

1. This Office action responds to the amendment and arguments filed by applicant on July 25, 2005 in reply to the previous Office action, mailed January 25, 2005.
2. The amendment of claims 1-8, cancellation of claims 9-21, and addition of claims 22-30, in the reply filed by applicant on July 25, 2005, are hereby acknowledged.

Priority

3. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Japan on August 22, 2000. It is noted, however, that applicant has still not filed a certified copy of the Japanese application as required by 35 U.S.C. 119(b).

Claim Objections

4. Claims 1-8 and 22-30 are objected to because of the following informalities: it is unclear how the abbreviation "MD" is intended to be an abbreviation of the term "merchandise assortment," which term one of ordinary skill in the art would ordinarily expect to find abbreviated as --MA--, if at all.

Appropriate correction (or, at least, clarification) is required.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

6. Claims 1-8 and 22-30 are rejected under 35 U.S.C. 102(b) as being anticipated by Gardner et al. (US 5,758,327).

Gardner et al. disclose a system for ordering items comprising: a server for controlling data communication with a plurality of terminals via a network; a database accessible by the server comprising: a merchandise master which stores information on items offered from dealers to a customer according to an item number unique to each item; and, a merchandise assortment related master which stores a list of traded items among the items stored in the merchandise master agreed upon between the customer and dealer MD related information according to each

purchasing unit of the customer and each dealer who offers the item to the customer; and, a terminal for submitting to the server an ordering request for ordering at least one item from a user who belongs to a purchasing unit; wherein the server comprises an item specific order controller for specifying, for each item in the ordering request, a dealer who offers the item, based on the MD related information of the purchasing unit to which the user belongs.

Regarding claim 2, the server of Gardner et al. further comprises: a deliverer specific controller for specifying a deliverer who, when the ordering request is received from the terminal used by the user in the purchasing unit, delivers an item to the user separately for each item in the ordering request based on the MD related information of the purchasing unit to which the user belongs; and, a dealer data outputting controller for outputting, to a terminal used by the deliverer, dealer data used for delivering the item to the user from the deliverer specified for the item in the name of the dealer specified for the item.

Regarding claim 3, in the system of Gardner et al., the MD related master stores the MD related information in a state in which item numbers are not duplicated by a plurality of dealers.

Regarding claim 4, in the system of Gardner et al., the MD related master further includes a dealer decision item comprising at least one of delivery time, price, and dealer priority rank for specifying a dealer according to each item number; wherein the item specific ordering controller comprises a dealer duplication specification function for specifying a dealer for an item in the ordering request according to a dealer decision item of an item number of the item if the item number of the item is duplicated by dealers.

Regarding claim 5, in the system of Gardner et al., the item specific ordering controller comprises an approval standard specific ordering control function for applying an approval standard determined by the customer to each of the at least one item in the ordering request.

Regarding claim 22, in the system of Gardner et al., the approval standard specific ordering control function groups items having the same approval standards when the ordering request contains a plurality of items having different approval standards.

Regarding claims 6-8 and 23-30, the elements recited therein can all be found in the claims discussed with specificity hereinabove.

Response to Arguments

7. Applicant's arguments filed July 25, 2005 have been fully considered but they are not deemed persuasive.

8. The arguments regarding the previous prior art rejections have been considered, but have been rendered moot by applicant's amendment, and the consequent new grounds of rejection.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to the disclosure.

10. Applicant's amendment necessitated any new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

11. Any inquiry concerning this communication, or earlier communications, should be directed to the examiner, **Jerry O'Connor**, whose telephone number is **(571) 272-6787**, and whose facsimile number is **(571) 273-6787**.

The examiner can normally be reached weekdays from 9:30 to 6:00.

If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Mr. Alexander Kalinowski, can be reached at **(571) 272-6771**.

Official replies to this Office action may be submitted by any *one* of fax, mail, or hand delivery. **Faxed replies are preferred and should be directed to (571) 273-8300.** Mailed replies should be addressed to "Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450." Hand delivered replies should be delivered to the "Customer Service Window, Randolph Building, 401 Dulany Street, Alexandria, VA 22314."

GJOC

October 17, 2005

 10/17/05

Gerald J. O'Connor

Primary Examiner

Group Art Unit 3627